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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,251	08/10/2001	Alex Waluszko	001-17	4302

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James E. Brunton
700 North Brand Blvd., Suite 860
P.O. Box 29000
Glendale, CA 91029

EXAMINER

NGUYEN, LAM S

ART UNIT	PAPER NUMBER
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2853

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,251

Applicant(s)

WALUSZKO, ALEX

Examiner

LAM S NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim 13 is objected to because of the following informalities: It is unclear that if “said time period” in (e) is the first or second period of time. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 13, 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Weihsmantel et al. (US 3738748).

Weihsmantel et al. disclose a method for irradiating an article using an apparatus comprising a housing (FIG. 1, element 11), a support (FIG. 1, element 15) disposed within the housing for supporting the article, a source of radiation disposed within the housing at a spaced apart location from the support, shutter means (FIG. 8, element 42a-c and FIG. 13, element 51a) disposed intermediate the support and the source of radiation (FIG. 8, element 11) for movement between a first, closed position blocking irradiation (FIG. 8, 13) of the article and a second open position (FIG. 10, 14) permitting irradiation of the article, and control means for energizing the source of radiation and for controlling the shutter means, the method comprising the steps of:

- placing the article to be irradiated on the support;
- determining a first period of time (column 11, line 7 to column 12, line 13:

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warmup cycle) required for the source of radiation to reach its full energization level (column 5, line 49-51) and determining a second period of time that the article is to be irradiated (column 13, line 34-61: the expose time period);

using the control means energizing the source of radiation; using the control means and following the expiration of said first period of time, moving the shutter means to the second open position (column 13, line 34-61: the expose time period); and

at the end of said time period (Assumed that this time period is the second time period), moving the shutter means to the first, closed position (column 13, line 61 to column 14, line 22: the shutter is closed after the expose time).

Referring to claim 16: in which the support is mounted on a drawer having a door and in which the method includes the further step of closing said shutter means upon opening the door (FIG. 1, element 20, 22).

Referring to claim 17: including the further step of following movement of the shutter means to the first closed position, deenergizing the source of radiation (Abstract: in the standby mode).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

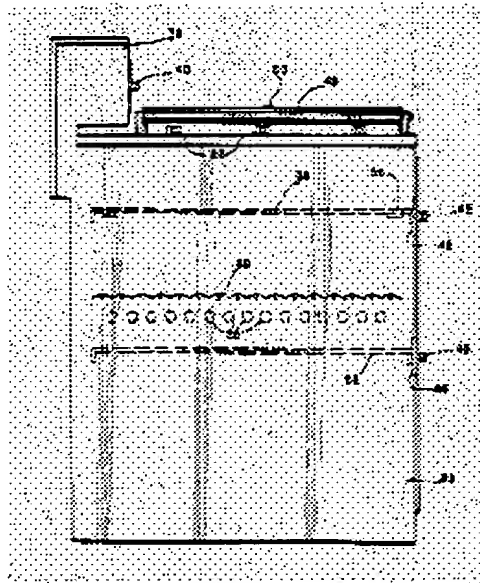
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gush et al. (US 3619601) in view of Weihsmantel et al. (US 3738748).

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Gush et al. disclose an apparatus for irradiating an article comprising:

- (a) a housing (FIG. 5);
- (b) a support disposed within said housing for supporting the article (FIG. 5, element 58);
- (c) a source of radiation disposed within said housing at a spaced apart location from said support (FIG. 5, element 66 and column 11, line 32-37);



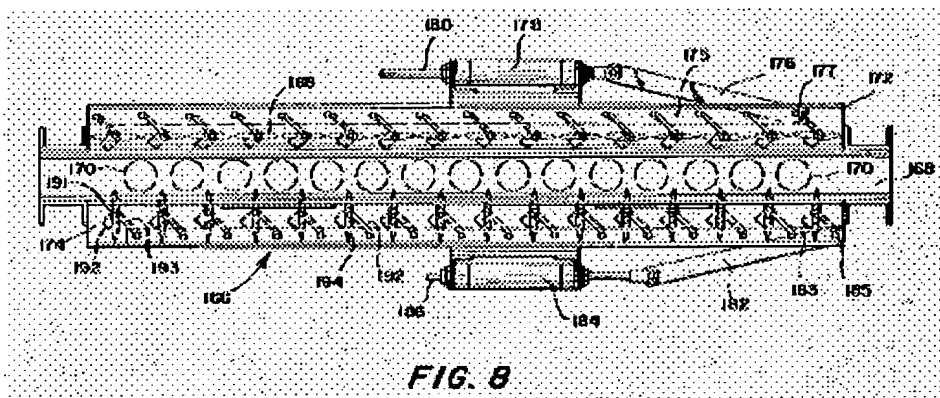
- (d) shutter means (FIG. 5, element 68) disposed intermediate said support and said source of radiation for movement between a first, closed position blocking irradiation of the article and a second open position permitting irradiation of the article (FIG. 8, element 188); and
- (e) control means for controlling said shutter means (FIG. 8, elements 178 and 184) can be set for a second interval of time during which said shutter means remains in said second position (claim 2).

Referring to claim 2: said source of radiation comprises a source of ultraviolet radiation (column 11, line 32-37).

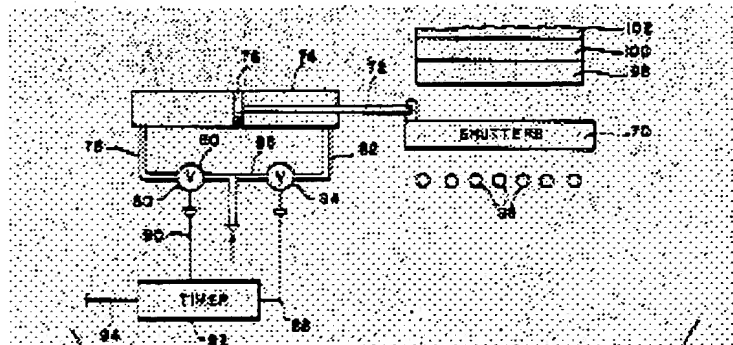
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Referring to claim 3: said shutter means comprises:

- (a) a supporting frame mounted within said housing proximate said planar array (FIG. 8, elements 172, 174, 175); and
- (b) a plurality of blocking elements (Fig. 8, element 188) connected to said supporting frame for movement between a first, shutter closed position to a second, shutter open position (FIG. 8).



Referring to claims 4, 7: further including a timer (FIG. 6, element 92) operably associated with said control means (FIG. 6, element 74) and with said shutter means (FIG. 6, element 70) for moving said shutter means between said first and second positions at selected intervals of time.



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Referring to claims 5, 8, 10: said control means comprises data input means operably associated with said timer for setting said timer (FIG. 6, element 94) and for moving said vanes (assumed that these vanes are the blocking elements disclosed in claim 6) from said first shutter open position to said second shutter closed position upon the passage of a selected interval of time (FIGs. 6 and 8).

Referring to claim 11: said blocking elements comprise a plurality of vanes pivotally connected to the said supporting frame for movement between a first shutter open position and a said second shutter closed position (FIG. 8, elements 188 and 194).

Referring to claim 9: said shutter operating means comprises a solenoid (column 4, line 42-47).

Referring to claim 18: comprising:

a housing having an upper portion, a lower portion and an internal chamber disposed between said upper and lower portions (FIG. 1-3);

a drawer assembly connected to said housing and disposed within said internal chamber and including a support for supporting the polynucleotide, said drawer assembly being moveable between a first position wherein said support is disposed within said chamber and a second position wherein said support is at least partially outside said chamber (FIG. 3-4).

Gush et al. do not disclose that the timer can be set for a first interval of time between energization of said source of radiation and movement of said shutter means between said first and second positions to allow said source of radiation to reach a full energization level (**Referring to claim 1**) and said blocking elements comprise a plurality of panels connected to

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the said supporting frame for movement between a first shutter open position and a said second shutter closed position while the source of radiation is deenergizing (**Referring to claim 12**).

However, Weihsmantel et al. disclose a cabinet having light source (FIG. 14, element 13) and blocking elements comprise a plurality of panels connected to the said supporting frame for movement between a first shutter open position and a said second shutter closed position (FIG. 14, element 51a) while the source of radiation is deenergizing (Abstract), and a timer can be set for a first interval of time between energization of said source of radiation and movement of said shutter means between said first and second positions to allow said source of radiation to reach a full energization level (column 5, line 7-8, and column 11, line 7 to column 12, line 14: warmup period or warmup cycle).

Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to replace the blocking elements in the apparatus disclosed by Gush et al. by a plurality of panels connected to the said supporting frame for movement between a first shutter open position and a said second shutter closed position while the source of radiation is deenergizing as disclosed by Weihsmantel et al. The motivation of doing so is to shield the light source when it is not at the exposing intensity in order to avoid wasting energy as taught by Weihsmantel et al. (column 1, line 43-45).

3. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gush et al. (US 3619601) in view of Weihsmantel et al. (US 3738748), and further in view of Giellisse (US 4394580).

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Gush et al., as modified, disclose the claimed invention as discussed above, except that in which said timer means causes said shutter means to automatically close upon movement of said drawer assembly toward said second position.

Gielisse discloses an apparatus for analyzing gems having a radiation source, a slidable specimen drawer, and a mechanical shutter mechanism wherein the shutter is automatically closed upon movement of the drawer assembly toward an open position (column 5, line 39-52: the shutter is actuated only when the drawer is fully closed means that when the drawer is in open position, the shutter is in the position that precludes radiation leakage).

Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to modify the apparatus for irradiating an article disclosed by Gush et al., as modified, such that the shutter is automatically closed upon movement of the drawer assembly toward the open position as disclosed by Gielisse. The motivation of doing so is to prevent radiation leakage that is dangerous to human eyes and skin as taught by Gielisse (column 5, line 39-41).

Response to Arguments

Applicant's arguments filed 08/04/2003 have been fully considered but they are not persuasive.

Regarding to the argument that the cited references fail to disclose "the shutter means remains closed until the lamps reach their full energization level". As discussed above, Weihs mantel et al. disclose a warmup cycle needed for the exposure lamp when the apparatus is turned on (column 11, line 7-8). During this warmup cycle, the shutter is held in the closed position (column 11, line 49-50). The warmup cycle is initiated and is activated by energizing a

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relay 458 having a time delay (column 11, line 51-55). The shutter is not opened until this time delay elapsed (column 11, line 55- column 12, line 15). Therefore, Weihsmantel et al. teach or suggest the claimed invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAM S NGUYEN whose telephone number is (703)305-3342. The examiner can normally be reached on 7:00AM - 3:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, STEPHEN D. MEIER can be reached on (703)308-4896. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3431 for regular communications and (703)305-3432 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

LN

August 27, 2003


STEPHEN MEIER
SUPERVISORY PATENT EXAMINER